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MONTANA LEGISLATIVE HISTORY

Chapter 630 19 85

Bill H _____ S 109 Original bill & history ____C

H. Committee on Education & Cultural Resources		S. Committee on Education & Cultural Resources	
Hearing Date(s) Mar 08	✓ C	Hearing Date(s) Jan 21	✓ C
_____	____C	Feb 13	✓ C
_____	____C	_____	____C
_____	____C	_____	____C
Date Out _____	____C		

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

SENATE FINAL STATUS

4/18 TRANSMITTED TO GOVERNOR
4/23 SIGNED BY GOVERNOR
CHAPTER NUMBER 611 EFFECTIVE DATE: 7/01/85

SB 107 INTRODUCED BY SHAW
REQUIRING SECURING OF LOADS ON VEHICLES
BY REQUEST OF HIGHWAY PATROL

1/14 INTRODUCED
1/14 REFERRED TO HIGHWAYS & TRANSPORTATION
2/05 HEARING
2/13 COMMITTEE REPORT-BILL PASS AS AMENDED
2/15 2ND READING INDEFINITELY POSTPONED 40 7

SB 108 INTRODUCED BY SHAW
REVISING SPEEDING PENALTY, $5 FINE FOR 55 TO 70 MPH

1/14 INTRODUCED
1/14 REFERRED TO HIGHWAYS & TRANSPORTATION
1/15 FISCAL NOTE REQUESTED
1/21 FISCAL NOTE RECEIVED
2/05 HEARING
2/15 COMMITTEE REPORT-BILL PASS AS AMENDED
2/19 2ND READING INDEFINITELY POSTPONED 31 12

SB 109 INTRODUCED BY FULLER, ERNST, SPAETH, ET AL.
MUSEUM LOAN ACT
BY REQUEST OF MONTANA HISTORICAL SOCIETY

1/15 INTRODUCED
1/15 REFERRED TO EDUCATION & CULTURAL RESOURCES
1/21 HEARING
2/14 COMMITTEE REPORT-BILL PASS AS AMENDED
2/16 2ND READING PASS 47 0
2/19 3RD READING PASS 45 0

2/27 TRANSMITTED TO HOUSE
2/27 REFERRED TO EDUCATION & CULTURAL RESOURCES
3/08 HEARING
3/09 COMM REPORT-BILL CONCURRED AS AMENDED
3/14 2ND READING CONCURRED AS AMENDED 92 0
3/16 3RD READING CONCURRED 86 7

3/22 RETURNED TO SENATE WITH AMENDMENTS
3/21 2ND READING AMENDMENTS NOT CONCURRED 47 0
3/25 CONFERENCE COMMITTEE APPOINTED
4/16 CONFERENCE COMMITTEE REPORT

SENATE
4/17 2ND READING CONFERENCE COMMITTEE REPORT ADOPTED 49 0
4/18 3RD READING CONFERENCE COMMITTEE REPORT ADOPTED 48 0

HOUSE
4/16 2ND READING CONFERENCE COMMITTEE REPORT ADOPTED 88 4
4/16 3RD READING CONFERENCE COMMITTEE REPORT ADOPTED 89 3
4/22 SIGNED BY PRESIDENT

4/23 SIGNED BY SPEAKER

4/24 TRANSMITTED TO GOVERNOR
4/25 SIGNED BY GOVERNOR
CHAPTER NUMBER 630 EFFECTIVE DATE: 10/

SB 110 INTRODUCED BY MAZUREK, HALLIGAN
ADOPT UNIFORM ARBITRATION ACT

1/15 INTRODUCED
1/15 REFERRED TO JUDICIARY
1/21 HEARING
2/06 COMMITTEE REPORT-BILL PASS AS AMENDED
2/09 2ND READING PASS AS AMENDED
2/12 3RD READING PASS

TRANSMITTED TO HOUSE
2/27 REFERRED TO JUDICIARY
3/13 HEARING
3/13 COMM REPORT-BILL CONCURRED AS AMENDED
3/16 2ND READING CONCURRED
3/18 3RD READING CONCURRED

RETURNED TO SENATE WITH AMENDMENTS
3/22 2ND READING AMENDMENTS NOT CONCURRED
3/22 CONFERENCE COMMITTEE APPOINTED
4/11 CONFERENCE COMMITTEE DISSOLVED
4/11 FREE CONFERENCE COMMITTEE APPOINTED
4/22 FREE CONFERENCE COMMITTEE REPORT

SENATE
4/23 2ND READING FREE CONFERENCE COMMITTEE REPORT ADOPTED
4/23 3RD READING FREE CONFERENCE COMMITTEE REPORT ADOPTED

HOUSE
4/23 2ND READING FREE CONFERENCE COMMITTEE REPORT ADOPTED
4/23 3RD READING FREE CONFERENCE COMMITTEE REPORT ADOPTED
4/26 SIGNED BY PRESIDENT
4/30 SIGNED BY SPEAKER

4/30 TRANSMITTED TO GOVERNOR
5/09 SIGNED BY GOVERNOR
CHAPTER NUMBER 684 EFFECTIVE DATE: 10/0

SB 111 INTRODUCED BY STORY
TO REQUIRE THE FEDERAL GOVERNMENT TO COMPLY WIT
STATE CONDEMNATION LAWS

1/15 INTRODUCED
1/15 REFERRED TO STATE ADMINISTRATION
1/23 HEARING
1/23 TABLED IN COMMITTEE

SB 112 INTRODUCED BY STORY
CLARIFY THAT STREAMBED PROTECTION ACT APPLIES TO
FEDERAL GOVERNMENT

MINUTES OF THE MEETING
EDUCATION AND CULTURAL RESOURCES COMMITTEE
MONTANA STATE SENATE

January 21, 1985

The fourth meeting of the Senate Education and Cultural Resources Committee was called to order by the Chairman, Senator Chet Blaylock, at 1:02 p.m., in Room 402, State Capitol Building.

ROLL CALL: All committee members were present.

CONSIDERATION OF SENATE BILL 109: SENATOR FULLER, District 22, sponsor of the bill, stated the bill attempts to correct problems that now exist with disposition of property on loan to the Historical Society and other museums in the state after donors are deceased or can no longer be contacted. Senator Fuller introduced Dr. Robert Archibald, Dirctor, Montana Historical Society, to further present the bill to the Committee.

PROPONENTS: DR. ROBERT ARCHIBALD, Director, Montana Historical Society, read a letter of support for the bill from the Montana Association of Museum Directors. Dr. Archibald stated the main applicability of the bill is to material loaned to museums in the past 10 to 60 years. He said current loans are set for very specific times and purposes. The problem with old loans arises when no contact can be made with donors or their heirs. The museum is left with the responsibility for the property, but no legal title. However, the museum must keep the property insured and cannot dispose of it in any way. The main concern is that at some specific point the museum is no longer responsible, therefore, the bill provides for a system of notification. After an item has been on loan for seven years, the museum attempts to contact the donor or heir. If there is no response, a public notice is sent to the newspaper in the donor's last known area of residence. Following that notification, if there is still no response, after three years the museum gains legal title.

CLAUDETTE MORTON, Cultural Interest Representative for the Montana Division of the American Association of University Women, spoke in support of the bill (EXHIBIT #1).

BRENDA SCHYE, representing Montana Arts Advocacy, spoke in support of the bill (EXHIBIT #2).

There were no further proponents and NO OPPONENTS to the bill.

DISCUSSION: SENATOR REGAN asked if the Montana law concerning abandoned property applied to this area.

DR. ARCHIBALD replied the Attorney General's opinion stated the abandoned property statutes do not apply to this area.

SENATOR REGAN expressed concern that this bill be consistent with the provisions in the current abandoned property statutes.

There being no further discussion, SENATOR FULLER closed by saying the bill may not anticipate every evenuality, however, it is a fair and reasonable way to address the problem.

CONSIDERATION OF SENATE BILL 117: SENATOR HIMSL, District 3, sponsor of the bill, presented his testimony to the committee (EXHIBIT #3).

PROPONENTS: KATHY FABIANO, Administrator, Accounting Division, Department of Administration, presented her testimony in support of the bill (EXHIBIT #4).

BILL ANDERSON, Office of Public Instruction, presented his testimony in support of the bill (EXHIBIT #5).

There were no further proponents and NO OPPONENTS to the bill.

Senator Himsl closed.

ACTION ON SENATE BILL 117: SENATOR McCALLUM MOVED SENATE BILL 117 DO PASS. The motion carried unanimously.

ACTION ON SENATE BILL 84: Chip Erdman, Montana School Boards Association, Rick Bartos, Office of Public Instruction Attorney, and Lee Heiman, Committee Counsel, all agreed the bill needed no amendment.

SENATOR REGAN MOVED SENATE BILL 84 DO PASS. The motion carried unanimously.

ACTION ON SENATE BILL 109: Senator Regan asked the Chairman to appoint a sub-committee to ensure SB 109 provisions are compatible with current abandoned property statutes.

Senator Blaylock appointed Senator Mazurek, Senator Pinsoneault, and Lee Heiman to the sub-committee. They will report at the January 25th meeting.

ADJOURN: There being no further business, the meeting adjourned.

Chet Blaylock
Senator Chet Blaylock, Chairman

jdr

DATE 1/21/85

COMMITTEE ON Education & Cultural Resources SBILL NO. 109 117

VISITOR'S REGISTER

NAME	REPRESENTING	Check One: Support	Oppose
[illegible]	Mt. Hist. Soc.	✓	
Brian Cochrell	Mt. Hist. Soc.	✓	
[illegible]	MT Hist Soc	✓	
Claudette Morton	A.A.U.W.	✓	
Brenda Schye	Montana Arts Advocacy	SB 109 ✓	

(Please leave prepared statement with Secretary)

EDUCATION AND
CULTURAL RESOURCES
JAN 21, 1985
SB 109

Testimony in Support of SB109

For the record, my name is Claudette Morton, and I am the Cultural Interest Representative for the Montana Division of the American Association of University Women. I live here in Helena.

At the last state convention of the American Association of University Women the membership passed a resolution which supported the concepts presented in SB109.

Montanans have been generous and shared their art works, their historical and scientific collections with their state by placing them in their local and state museums. This has been a bonus for everyone. Yet, it has not been without problems, As the value of these loaned materials increased, it became apparent that there was no consistent conditions for these loans. Because many museums receive state funding, it is important for the legislature to enact this legislation, SB109, which will clearify the relationship and the conditions for both the museums and the citizens, so that this beneficial system can continue.

Thank you.

EXHIBIT #2
EDUCATION AND CULTURAL RESOURCES
JAN. 21, 1985
SB 109

Form CS-34
-79

NAME Brenda Schye

BILL No. SB 109

ADDRESS North Star Rte, Glasgow

DATE 1-21-85

WHOM DO YOU REPRESENT Montana Arts Advocacy

SUPPORT ✓ OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

I represent the Montana Arts Advocacy, a 700-member cross section of Montanans who are committed to our state's cultural and artistic growth. Museums play a central role in preserving the rich cultural heritage of our state. There is a need for legislation which sets forth a uniform procedure for them to deal with abandoned cultural property.

We believe SB109 provides museums (large and small) with the flexibility they need to properly manage their collections, while protecting the interests of families and individuals who have generously entrusted museums with articles for the public's benefit.

We hope you will give this bill a favorable recommendation.

EXECUTIVE SESSION:

ACTION ON SENATE BILL 109:

SENATOR MAZUREK moved to amend page 9, line 17 as per the attached standing committee report. The motion carried unanimously.

SENATOR MAZUREK moved to amend page 10, line 4 as per the attached standing committee report. The motion carried unanimously.

SENATOR MAZUREK moved to amend page 4, lines 1-7 as per the attached standing committee report. The motion carried unanimously.

SENATOR BROWN moved Senate Bill 109 DO PASS AS AMENDED. The motion carried unanimously.

FURTHER CONSIDERATION OF HOUSE BILL 11:

SENATOR REGAN explained the bill is being amended on the floor because the wrong section for dismissal of a principal had been cited.

CHIP ERDMAN, Montana School Boards Association, said his organization recognizes only one tenure, that of teachers.

SENATOR REGAN quoted the decision in the Sorlie case and said that indicated there is administrative tenure and teacher tenure.

Committee members were concerned the bill would pass in a form that was not mutually acceptable. An informal committee composed of Senators Regan, Mazurek, and Brown, Chip Erdman, and Jess Long was formed to look at it one more time and reach a mutually agreeable solution.

ADJOURN:

There being no further business to come before the committee, the meeting was adjourned.

Chet Blaylock

Senator Chet Blaylock, Chairman

idr

STANDING COMMITTEE REPORT

February 13, 19 85

MR. PRESIDENT

We, your committee on EDUCATION AND CULTURAL RESOURCES

having had under consideration SENATE BILL No. 109

first reading copy (white color)

MUSEUM LOAN ACT

Respectfully report as follows: That SENATE BILL No. 109

be amended as follows:

1. Page 4, lines 1 through 7.
Strike: subsection (b) in its entirety
Renumber: subsequent subsection

2. Page 6, line 2.
Following: "museum"
Strike: "promptly"

3. Page 6, lines 3 through 5.
Following: "property." on line 3
Strike: remainder of line 3 through line 5 in their entirety

4. Page 8, line 22.
Following: "so"
Strike: "promptly"

5. Page 9, lines 18 and 19.
Following: "museum" on line 18
Strike: "represents that it"

6. Page 10, line 4.
Following: "at"
Strike: "5"
Insert: "10"

AND AS AMENDED

DO PASS

DO NOT PASS

Senator Chet Blaylock, Chairman.

MINUTES OF THE MEETING
EDUCATION AND CULTURAL RESOURCES COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

March 8, 1985

The meeting of the Education and Cultural Resources Committee was called to order by Chairman Dan Harrington at 3:25 p.m. on March 8, 1985 in Room 312-3 of the State Capitol.

ROLL CALL: All members were present, but Representatives Hammond, Hannah, Harbin, and Thomas arrived later than roll call.

CONSIDERATION OF S.B. 106: Senator James Shaw, District #12, introduced S.B. 106 as primary sponsor of the bill. The bill has to do with Subchapter "S" Corporations in that if you own land in two different counties and are a Subchapter "S" Corporation, you would not need to pay tuition for a child attending school in a county nearest your residence, i.e. the tuition is pro-rated. A few years ago the Attorney General ruled that Subchapter "S" Corporations were not classified as a partnership. Sen. Shaw also distributed an amendment (Exhibit 1) which may take care of some objections he has heard to the bill. He asked for concurrence.

PROPONENTS: Bill Anderson with the Office of Public Instruction offered support as the bill is fair and would not give the members of these families any more rights than anyone else.

Don Waldron, speaking for the School Administrators of Montana, said the bill would be a legal way to do what is fair for the taxpayers in the districts.

There being no further proponents, opponents, or questions from the committee, Senator Shaw closed the hearing on the bill by referring to the amendments which would take care of any problems.

CONSIDERATION OF S.B. 109: Representative Gene Ernst from District #29 opened the hearing on S.B. 109 on behalf of Sen. David Fuller, who was presiding in the Senate at the time. Rep. Ernst said the bill came at the request of the Montana Historical Society and is titled the Museum Loan Act. He asked that a member of the Historical Society explain the purpose of the bill.

Mr. Bob Archibald, Director of the Montana Historical Society, distributed written testimony, Exhibit 2, and explained that the bill would permit museums to assume title to items which have been loaned to them in instances where the lender or their successors cannot be located. It would not take affect until seven years after the loan was made. He said any upkeep

or maintenance on these items is impossible at present because they are not the legal property of the museums in the State. He read to the committee a letter of resolution which supported this legislation and represented the feelings of 80 museums across Montana. (See Exhibit 3)

PROPONENTS: Brenda Schye spoke on behalf of the Montana Arts Advocacy which, she explained, is a broad cross-section of Montanans. She asked that the committee consider this bill favorably. (See written testimony,Exhibit 4)

Bill Anderson, Office of Public Instruction, relayed that his staff felt this is a good bill and supports it.

There being no further proponents or opponents, Chairman Harrington opened the floor to questions. Rep. Montayne asked Mr. Archibald if he could get back a gift given to a museum by a relative. Mr. Archibald said the donor would generally be required to sign a title transfer and it would assume the donor is the legal owner in the first place. The I.R.S. also requires that if the donation is claimed for tax purposes, there must be a title transfer. Rep. Mercer questioned whether this would apply to items already in the museums and Mr. Archibald said it would apply only to loaned material. If the heirs cannot be located by certified mail, a public notice would be placed in the newspaper for three weeks. Rep. Mercer asked what would be the ramifications of failure to notify the museum of an address change, as in Section 7 of the bill. It was clarified that after seven years and attempts to contact the owners, the museum takes ownership of the property. There ensued discussion regarding the signing of a loan agreement, presenting that loan agreement or proof of ownership when an object on loan is released to another party, and the need for the museum to know that they are giving the item back to the rightful owner. The provisions of the statute are made known to the lender at the time the loan agreement is signed. Rep. Peck wondered what sort of documentation would be needed to ascertain that an item truly belonged to the person in the first place. Mr. Archibald said they have to be very careful and use their best judgement. It was pointed out to Rep. Eudaily that the change in the interest rate in the bill from 5% to 10% on Page 10, line 4 of the bill was a Senate amendment to reflect present realities.

Senator Fuller was present at this time to close the hearing on S.B. 109 by urging support of the bill.

CONSIDERATION OF S.B. 84: Senator Bob Brown, District #2, opened the hearing on this bill as its sponsor. He said this is a simple bill which fills a place in the law that somehow was not addressed. It allows schools to acquire property by

be added to lines 19 and 20 on Page 3. He explained the U.S. Tax Code (1371 & 1372) definition of corporations having 20% or more of its gross receipts, or $3,000, whichever is more, cannot be a Subsection "S" Corporation. The intent of the amendments should be to leave the wording at closely held or family coporations. It was generally agreed among committee members that if someone wished to know if they fit the categories of a closely held or family corporation definition, they should go to the legislative council attorney. Rep. Glaser believed a lot of people were excluded in this bill that Sen. Shaw intended to include. Rep. Hannah moved that action on S.B. 106 be passed for the day and the motion was unanimously approved.

ACTION ON S.B. 84: Rep. Williams moved that S.B. 84 BE CONCURRED IN. The motion was seconded by Rep. Kitselman and the motion carried by unanimous voice vote.

ACTION ON S.B. 109: Rep. Peck moved that S.B. 109 BE CONCURRED IN. Rep. Williams seconded the motion. Rep. Mercer moved to amend the bill in the following way:

1. Page 3, lines 14 through 16.
   Following: "property"
   Strike: remainder of line 14 through "property" on line 16

He explained that he felt it difficult to provide documentation on property ownership on these kinds of items. It was pointed out by Mr. Archibald that a Notice of Intent to retain interest is filed in response to a letter sent by the Society and with or without the statute the museum cannot return property unless they are provided with a receipt or documentation. In cases of potential heirs reclaiming property, they need a copy of the original loan receipt, a copy of the will, or other documents which state the interest the person may have in the property.

The question was called on the motion to amend S.B. 109 and it carried by voice vote with six opposing votes cast.

Rep. Hannah addressed the bill with his objection of cutting off the rights of the people and giving ownership over to the museum. He suggested that a bill be drafted so the museums have a right to preserve and maintain property placed in their care rather than giving ownership to them.

Mr. Archibald answered Rep. Eudaily's question of who establishes a reasonable market value as referred to on Page 10 of the bill by saying that it would have to be done by an appraiser, and he would assume it would not have to be done in court.

A voice vote was called on the motion that S.B. 109 BE CONCURRED IN AS AMENDED. The motion carried with Reps. Hannah, Glaser, and Brandewie opposing.

STANDING COMMITTEE REPORT

MARCH 8 19 85

MR. SPEAKER

We, your committee on EDUCATION AND CULTURAL RESOURCES

having had under consideration SENATE Bill No. 109

THIRD reading copy (BLUE) color

MUSEUM LOAN ACT

Respectfully report as follows: That SENATE Bill No. 109

BE AMENDED AS FOLLOWS:

1. Page 3, lines 14 through 16.
   Following: "property"
   Strike: remainder of line 14 through "property" on line 16

AND, AS AMENDED

BE CONCURRED IN

~~DO PASS~~

REP. DAN HARRINGTON Chairman.

STATE PUB. CO.
Helena, Mont.

EXHIBIT 2
S.B. 109
3-8-85

TESTIMONY: SB109
Museum Loan Act

MONTANA HISTORICAL SOCIETY,
ROBERT ARCHIBALD

Senate Bill 109 permits museums to assume title to items which have been loaned to them where the lender or his or her successors cannot be located. The provisions of this bill have no effect until at least seven years after the loan was made.

The legislation provides for extensive safeguards to protect the rights of lenders. The proposed statute will address a longstanding dilemma faced by many Montana museums, including the Montana Historical Society. Museums often are responsible for materials to which they have no clear title and where the owner or the owners' heirs cannot be located. The Historical Society, for example, has objects which have been in its possession for fifty years which are stored and insured but to which the Society has no legal title. Such objects cannot be located when they deteriorate and while we do not own them, we also cannot dispose of them. This bill will permit us to obtain title in such situations after due process, as outlined in the legislation has been followed.

Due process consists of the following:

1. Lender will be informed of the process when the loan is made.

2. After seven years the museum may notify the lender of its intent to terminate the loans. If the museum cannot locate the lender through the mails, it must give notice of its intent in newspapers in the area of the museum and in the area of the lender's last known address.

3. The lender may preserve interest by notifying the museum in writing.

4. The lender may take action to recover the property for three additional years.

The Montana Historical Society supports SB109. The bill addresses the legitimate concerns of museums while providing appropriate safeguards for lenders.

EXHIBIT 3
S.B. 109
3-8

M A M museums association of montana

Loma, Montana
January 16, 1985

Dr. Robert Archibald, Director
Montana Historical Society
225 North Roberts
Helena, Montana 59620

Dear Dr. Archibald:

At the Museums Association of Montana meeting in Hamilton May 11, 1984, a thorough discussion was held on the many increasing problems related to items that had been loaned to museums. We were advised that there would be a Bill addressing the problem, presented to the 1985 Legislature.

Aware that many of our members were presently being confronted with this kind of problem, our Board of Directors composed the following resolution;

WHEREAS Existing law does not specifically address the issue of the rights of museums and lenders of property to museums as to property which has been left unclaimed by the owner thereof for an extended period of time, and

WHEREAS This is a topic of concern to the nuseum profession nationaly, and

WHEREAS Museums in Montana have a significant number of unclaimed loans--in some instances loans which have remained in an institution for 75 years.

NOW THEREFORE BE IT RESOLVED: that the Museums Association of Montana supports legislation setting forth a procedure for dealing with unclaimed cultural property.

This resolution was presented to our members in our Association Summer 1984 Newsletter. A ballot was provided so that approval or disapproval could be given. Ballots returned approved the resolution.

The Montana Historical Society is our only member in the Helena area. You will no doubt be keeping well advised on any proposed legislation addressing the problems of items loaned to museums. We would like for you to represent us and present our resolution, should there be any hearings on Bills related to this problem.

Sincerely,

Henry Pope

Henry Pope
President MAM
Box 126
Loma, Montana 59640

VISITOR'S REGISTER

SENATE HOUSE EDUCATION COMMITTEE

BILL 109 - MUSEUM LOAN ACT DATE March 8, 1985

SPONSOR David Fuller

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE
Brenda Schye	Glasgow	Mont. Arts Advocacy	X	
Todd Hoak		MEA	—	—
Jerry Mea	Helena	MHS	✓	
[illegible]	Mt. Holt Sch	MEA	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.